Hepting et al v. AT&T Corp. et al Doc. 4

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

TASH HEPTING, GREGORY HICKS, CAROLYN JEWEL and ERIK KNUTZEN on Behalf of Themselves and All Others Similarly Situated, Plaintiffs, vs. AT&T CORP., AT&T INC. and DOES 1-20, inclusive, Defendants.	No. C-06-0672-VRW **ADMINISTRATIVE MOTION OF DEFENDANT AT&T CORP. FOR ORDER SHORTENING TIME AS TO AT&T'S MOTION TO COMPEL RETURN OF CONFIDENTIAL DOCUMENTS** **[Civ. L.R. 7-11 and 79-5]** Courtroom: 6, 17th Floor Judge: Hon. Vaughn R. Walker

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I. RELIEF REQUESTED.

Defendant **AT&T CORP.** ("AT&T") hereby moves pursuant to Civil L.R. 7-11 for an order shortening time on the Motion of Defendant AT&T Corp. to Compel Return of Confidential Documents ("Confidential Documents Motion"), filed herewith. AT&T asks that its Confidential Documents Motion be briefed and heard on the following schedule:

Thursday, April 13, 2006: Plaintiffs file and hand-serve (or e-serve, if appropriate) their opposition to AT&T's Confidential Documents Motion.

Tuesday, April 18, 2006: AT&T file and hand-serve (or e-serve, if appropriate) its reply to plaintiffs' opposition.

Thursday, April 20, 2006, at 2 p.m.: Hearing before the Honorable Vaughn R. Walker, United States Chief District Judge, in Courtroom 6, 17th Floor, 450 Golden Gate Avenue, San Francisco, California.

II. REASONS FOR SEEKING EXPEDITED BRIEFING AND HEARING.

The relevant facts are set forth in the Confidential Documents Motion and the two declarations filed with it. Here AT&T shall give only the barest outline of the facts to note the reasons why expedited briefing and hearing makes sense.

Plaintiffs obtained AT&T documents from an AT&T employee. The documents are highly confidential. AT&T wants them back. AT&T also wants them kept under seal. As detailed in the declaration of James W. Russell, filed herewith, the documents are confidential and proprietary. Disclosure of them would cause AT&T great harm and potentially jeopardize AT&T's network, making it vulnerable to hackers and worse.

Plaintiffs filed these documents under seal (together with two declarations) on April 5, 2006 pursuant to Civil Local Rule 79-5. The documents, plus the two declarations, form the centerpiece of plaintiffs' preliminary injunction motion, filed March 31, 2006, and noticed for hearing on June 8, 2006. Without these documents, plaintiffs' motion rests on little more than newspaper clippings. Before filing further briefs and preparing for the hearing on plaintiffs' preliminary injunction motion, both sides need to know whether this evidence will be admissible, or not.

Plaintiffs' filings have been accompanied by a great burst of publicity, as detailed in the declaration of Bruce Ericson, filed herewith. Plaintiffs' counsel have orchestrated some of the publicity. An AT&T employee also has been quoted in the media and evidently has provided written statements to news organizations detailing a number of matters that appear in his declaration filed under seal. Before this Court has had any opportunity to rule whether the documents should be returned to their rightful owner, AT&T, whether they should remain under seal and whether they should be considered as evidence, highly confidential information from these documents has reached the press.

All this is causing grave injury to AT&T and to the security of its network. It therefore is important that this cease as soon as possible. AT&T therefore suggests an expedited briefing schedule so that issues regarding the possession and sealing of these documents can quickly be resolved, in a manner consistent with Civil Local Rule 79-5, the parties' needs and the public interest.

Civil Local Rule 79-5 contemplates that decisions about sealing will be made quickly. Therefore, AT&T has just five court days, or until Wednesday, April 12, 2006 to make its showing under Civil Local Rule 79-5(d). AT&T will meet that schedule. AT&T suggests that the most efficient course for the Court and for the parties would be to address the issues raised by the Confidential Documents Motion at roughly the same time.

The prejudice to plaintiffs from this expedited schedule, if any, is minimal. Plaintiffs have had the documents at issue for what their counsel has described as several months. They have had ample time to develop their arguments and they have already articulated their position. *See* Declaration of Lee Tien in Support of Administrative Motions to Extend Page Limit for Motion for Preliminary Injunction and to Lodge Documents with the Court (Dkt. 35), Ex. C (Letter of Cindy Cohn).

If AT&T's proposed schedule is inconvenient for the Court, AT&T respectfully requests that the Court set a prompt briefing and hearing schedule to address AT&T's Confidential Documents Motion and the sealing of the documents at issue at a time and on a briefing schedule that is convenient for the Court. Almost any schedule will suit AT&T so long as this matter is resolved promptly.

Dated: April 10, 2006.

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